

HOUSE SUBSTITUTE

FOR

HOUSE BILL NO. 668

AN ACT

2 To repeal sections 21.795 and 226.030, RSMo,
3 and to enact in lieu thereof nine new
4 sections relating to the transportation
5 accountability act, with an expiration date
6 for certain sections.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
8 AS FOLLOWS:

9 Section A. Sections 21.795 and 226.030, RSMo, are repealed
10 and nine new sections enacted in lieu thereof, to be known as
11 sections 21.795, 226.030, 226.192, 226.194, 226.195, 226.196,
12 226.197, 226.198, and 226.199, to read as follows:

13 21.795. 1. There is established a permanent joint
14 committee of the general assembly to be known as the "Joint
15 Committee on Transportation Oversight" to be composed of seven
16 members of the standing transportation committees of both the
17 senate and the house of representatives and three nonvoting ex
18 officio members. The transportation inspector general,
19 established pursuant to section 226.192, RSMo, shall serve as
20 executive director of the joint committee. Of the seven members
21 to be appointed to the joint committee, the senate members [of
22 the joint committee] shall be appointed by the president pro tem

1 of the senate and the house members shall be appointed by the
2 speaker of the house of representatives. No major party shall be
3 represented by more than four members from the house of
4 representatives nor more than four members from the senate. The
5 ex officio members shall be the state auditor, the director of
6 the oversight division of the committee on legislative research,
7 and the commissioner of the office of administration or the
8 designee of such auditor, director or commissioner. The joint
9 committee shall be chaired jointly by both chairs of the senate
10 and house transportation committees, who shall serve as
11 leadership for the joint committee. A majority of the committee
12 shall constitute a quorum, but the concurrence of a majority of
13 the members, other than the ex officio members, shall be required
14 for the determination of any matter within the committee's
15 duties.

16 2. The department of transportation shall submit a written
17 report prior to November tenth of each year to the governor,
18 lieutenant governor, and every member of the senate and house of
19 representatives [which]. The report shall be posted to the
20 department's Internet web site so that general assembly members
21 may elect to access a copy of the report electronically. The
22 written report shall contain the following:

23 (1) A comprehensive financial report of all funds for the
24 preceding state fiscal year which shall include a report by
25 independent certified public accountants, selected by the

1 commissioner of the office of administration, attesting that the
2 financial statements present fairly the financial position of the
3 department in conformity with generally accepted government
4 accounting principles. This report shall include amounts of:

5 (a) State revenues by sources, including all new state
6 revenue derived from highway users which results from action of
7 the general assembly or voter-approved measures taken after
8 August 28, 2003, and projects funded in whole or in part from
9 such new state revenue, and amounts of federal revenues by
10 source;

11 (b) Any other revenues available to the department by
12 source;

13 (c) Funds appropriated, the amount the department has
14 budgeted and expended for the following: contracts, right-of-way
15 purchases, preliminary and construction engineering, maintenance
16 operations and administration;

17 (d) Total state and federal revenue compared to the revenue
18 estimate in the fifteen-year highway plan as adopted in 1992.

19 All expenditures made by, or on behalf of, the department for
20 personal services including fringe benefits, all categories of
21 expense and equipment, real estate and capital improvements shall
22 be assigned to the categories listed in this subdivision in
23 conformity with generally accepted government accounting
24 principles;

1 (2) A detailed explanation of the methods or criteria
2 employed to select construction projects, including a listing of
3 any new or reprioritized projects not mentioned in a previous
4 report, and an explanation as to how the new or reprioritized
5 projects meet the selection methods or criteria;

6 (3) The proposed allocation and expenditure of moneys and
7 the proposed work plan for the current fiscal year, at least the
8 next four years, and for any period of time expressed in any
9 public transportation plan approved by either the general
10 assembly or by the voters of Missouri. This proposed allocation
11 and expenditure of moneys shall include the amounts of proposed
12 allocation and expenditure of moneys in each of the categories
13 listed in subdivision (1) of this subsection;

14 (4) The amounts which were planned, estimated and expended
15 for projects in the state highway and bridge construction program
16 or any other projects relating to other modes of transportation
17 in the preceding state fiscal year and amounts which have been
18 planned, estimated or expended by project for construction work
19 in progress;

20 (5) The current status as to completion, by project, of the
21 fifteen-year road and bridge program adopted in 1992. The first
22 written report submitted pursuant to this section shall include
23 the original cost estimate, updated estimate and final completed
24 cost by project. Each written report submitted thereafter shall
25 include the cost estimate at the time the project was placed on

1 the most recent five-year highway and bridge construction plan
2 and the final completed cost by project;

3 (6) The reasons for cost increases or decreases exceeding
4 five million dollars or ten percent relative to cost estimates
5 and final completed costs for projects in the state highway and
6 bridge construction program or any other projects relating to
7 other modes of transportation completed in the preceding state
8 fiscal year. Cost increases or decreases shall be determined by
9 comparing the cost estimate at the time the project was placed on
10 the most recent five-year highway and bridge construction plan
11 and the final completed cost by project. The reasons shall
12 include the amounts resulting from inflation, department-wide
13 design changes, changes in project scope, federal mandates, or
14 other factors;

15 (7) Specific recommendations for any statutory or
16 regulatory changes necessary for the efficient and effective
17 operation of the department;

18 (8) An accounting of the total amount of state, federal and
19 earmarked federal highway funds expended in each district of the
20 department of transportation; and

21 (9) Any further information specifically requested by the
22 joint committee on transportation oversight.

23 3. Prior to December first of each year, the committee
24 shall ~~[meet]~~ hold its annual meeting and call before its members,
25 officials or employees of the state highways and transportation

1 commission or department of transportation, as determined by the
2 committee, for the sole purpose of receiving and examining the
3 report required pursuant to subsection 2 of this section. The
4 committee may also call before its members at the annual meeting
5 the transportation inspector general for purposes authorized by
6 section 226.194, RSMo. The committee shall not have the power to
7 modify projects or priorities of the state highways and
8 transportation commission or department of transportation. The
9 committee may make recommendations to the state highways and
10 transportation commission or the department of transportation.
11 Disposition of those recommendations shall be reported by the
12 commission or the department to the joint committee on
13 transportation oversight.

14 4. In addition to the annual meeting required by subsection
15 3 of this section, the committee shall meet four times each year.
16 The co-chairs of the committee shall establish an agenda for each
17 meeting that shall include, but not be limited to, the following
18 items to be discussed with the committee members throughout the
19 year during the quarterly meetings:

20 (1) Presentation of a prioritized plan for all modes of
21 transportation;

22 (2) Discussion of department efficiencies and expenditure
23 of cost-savings within the department;

24 (3) Presentation of an annual accountability report;

25 (4) Presentation of a status report on department of

1 transportation revenues and expenditures, including a detailed
2 summary of projects funded by new state revenue as provided in
3 subparagraph (a) of subdivision (1) of subsection 2 of this
4 section;

5 (5) Review of any report from the inspector general; and

6 (6) Implementation of any actions as may be deemed
7 necessary by the committee as authorized by law.

8 The co-chairs of the committee may call special meetings of the
9 committee with ten days' notice to the members of the committee,
10 the transportation inspector general, and the department of
11 transportation.

12 5. The joint committee on transportation oversight may, by
13 majority vote, direct the transportation inspector general to
14 review, examine, or verify the written report of the department
15 of transportation prepared pursuant to subsection 2 of this
16 section or any section or information in such report. The
17 transportation inspector general shall submit a status report or
18 final report in response to such direction at one or more
19 regularly scheduled meetings of the committee.

20 6. The joint committee on transportation oversight may, by
21 majority vote, direct the transportation inspector general to
22 conduct a management evaluation or program evaluation as
23 authorized by section 226.195, RSMo.

24 7. The joint committee on transportation oversight may, by

1 majority vote, approve projects funded by new state revenue as
2 provided in subparagraph (a) of subdivision (1) of subsection 2
3 of this section. If approved by the committee, the list of such
4 projects shall be submitted annually to the general assembly no
5 later than the tenth legislative day. The plan submitted by the
6 joint committee on transportation oversight shall become
7 effective no later than forty-five calendar days after such plan
8 proposed by the joint committee on transportation oversight is
9 submitted to a regular session of the general assembly, unless
10 the entire plan is disapproved within forty-five calendar days of
11 its submission to a regular session by a concurrent resolution
12 introduced within fourteen calendar days of the submission of the
13 plan to a regular session of the general assembly and adopted by
14 a majority vote of the elected members of each house. If no
15 concurrent resolution disapproving of the plan is introduced
16 within fourteen calendar days of the submission of the plan to
17 the legislature, then the plan shall become effective at that
18 time. The presiding officer of each house in which a concurrent
19 resolution disapproving of the entire plan has been introduced,
20 unless the resolution has been previously accepted or rejected by
21 that house, shall submit it to a vote of the membership not
22 sooner than seven calendar days nor later than fourteen calendar
23 days after introduction of the concurrent resolution pertaining
24 to the plan. The presiding officer of the house passing a
25 concurrent resolution disapproving of the plan shall immediately

1 forward the bill to the other house and the presiding officer of
2 that house shall submit it to a vote of the membership not sooner
3 than seven calendar days nor later than fourteen calendar days of
4 its receipt from the other legislative body. The plan submitted
5 by the joint committee on transportation oversight shall not be
6 subject to amendment by either chamber, and such plan may only be
7 rejected or approved in its entirety.

8 8. The committee shall submit records of its meetings to
9 the secretary of the senate and the chief clerk of the house of
10 representatives in accordance with sections 610.020 and 610.023,
11 RSMo.

12 226.030. 1. The state highways and transportation
13 commission shall consist of six members, who shall be appointed
14 by the governor, by and with the advice and consent of the
15 senate, not more than three thereof to be members of the same
16 political party. Each commissioner shall be a taxpayer and
17 resident of state for at least five years prior to his
18 appointment. Any commissioner may be removed by the governor if
19 fully satisfied of his inefficiency, neglect of duty, or
20 misconduct in office. [All commissioners appointed prior to
21 October 13, 1965, shall serve the term for which they were
22 appointed.] Commissioners appointed pursuant to this section
23 shall be appointed for terms of six years. Upon the expiration
24 of each of the foregoing terms of these commissioners a successor
25 shall be appointed for a term of six years or until his successor

1 is appointed and qualified which term of six years shall
2 thereafter be the length of term of each member of the commission
3 unless removed as above provided. The members of the commission
4 shall receive as compensation for their services twenty-five
5 dollars per day for the time spent in the performance of their
6 official duties, and also their necessary traveling and other
7 expenses incurred while actually engaged in the discharge of
8 their official duties. Members whose terms otherwise expire
9 December 1, 2003, shall serve with terms expiring July 1, 2004; a
10 member whose term otherwise expires December 1, 2005, shall serve
11 with a term expiring July 1, 2006; a member whose term otherwise
12 expires December 1, 2007, shall serve with a term expiring July
13 1, 2008; and of the members whose terms otherwise expire October
14 13, 2007, one member shall serve with a term expiring July 1,
15 2006, and the other member shall serve with a term expiring July
16 1, 2008, as determined by the governor. The house and senate
17 leadership, which shall mean the speaker of the house of
18 representatives, the president pro tempore of the senate, and the
19 minority floor leaders of the house and of the senate, from the
20 same political party shall by party supply three candidates to
21 the governor for selection as members of the commission. The
22 governor shall select one candidate from each party. The
23 candidates shall be appointed by July first in even-numbered
24 years. In the event of a vacancy on the commission, the house
25 and senate leadership of that political party of the vacating

1 member shall submit three candidates for selection as a member to
2 the commission to the governor within thirty days of the vacancy.
3 The governor shall have fifteen days to select a new member of
4 the commission. The new member of the commission shall serve
5 only the remainder of the unexpired six-year term of the vacating
6 member.

7 2. Beginning August 28, 2003, when two members of the state
8 highways and transportation commission are within two years of
9 expiration of their terms, the commission shall appoint one of
10 those two members as chair of the commission and the other as
11 vice chair, each to serve in such position for one year. At the
12 end of such year, the member currently serving as chair shall
13 then serve as vice chair, and the member currently serving as
14 vice chair shall serve as chair, each to serve in such position
15 for one year.

16 3. No more than one-half of the members of the state
17 highways and transportation commission shall be of the same
18 political party. The selection and removal of all employees of
19 the department of highways and transportation shall be without
20 regard to political affiliation.

21 4. The present members of the state highways and
22 transportation commission shall serve as members of the state
23 highways and transportation commission for the remainder of the
24 terms for which they were appointed, except as provided in
25 subsection 1 of this section.

1 5. The director of the department of transportation shall,
2 by February fifteenth of each year, present an annual state of
3 the state of transportation to a joint session of the general
4 assembly. The six members of the state highways and
5 transportation commission shall be present and available at such
6 presentations for questions by members. The transportation
7 inspector general may also be present and report to the general
8 assembly on any matter of concern within his or her statutory
9 authority.

10 226.192. 1. There is hereby created the "Office of
11 Transportation Inspector General" which is assigned to the
12 general assembly, and who shall serve as executive director of
13 and be accountable to the joint committee on transportation
14 oversight. The transportation inspector general shall be
15 appointed by majority vote of a group consisting of the speaker
16 of the house of representatives, the minority floor leader of the
17 house of representatives, the president pro tempore of the
18 senate, the minority floor leader of the senate, and the chairman
19 of the highway and transportation commission. The transportation
20 inspector general initially appointed pursuant to this section
21 shall take office January 1, 2004, for a term ending June 30,
22 2005. Subsequent transportation inspector generals shall be
23 appointed for five-year terms, beginning July 1, 2005. The
24 transportation inspector general may be removed by majority vote
25 of both chambers of the general assembly because of his or her

1 inefficiency, neglect of duty, or misconduct in office. Any
2 transportation inspector general whose term is expiring shall be
3 eligible for reappointment.

4 2. The transportation inspector general may, subject to
5 appropriation, hire such auditors, investigators, attorneys, and
6 other office personnel as necessary to carry out his or her
7 duties. The selection and removal of all employees shall be
8 without regard to political affiliation. Persons employed by the
9 transportation inspector general as auditors shall be
10 professional persons possessing a wide knowledge and demonstrated
11 expertise in governmental programming and financial planning, in
12 conducting program review evaluations and analytic studies, and
13 of federal, state, and local government budgetary processes,
14 laws, and regulations of the state of Missouri. The division of
15 budget and planning, office of administration may at the request
16 of the transportation inspector general lend support by
17 assignment of budget analysts to assist the transportation
18 inspector general.

19 3. The transportation inspector general and all employees
20 of the transportation inspector general shall, before entering
21 upon the duties of his or her office or employment, take and
22 subscribe to an oath or affirmation to support the constitution
23 of the United States and of this state, and to faithfully and
24 honestly discharge the duties of such office or employment.
25 Neither the transportation inspector general or any employee of

1 the office of transportation inspector general shall, directly or
2 indirectly, have any pecuniary interest in, or act as agent for,
3 the sale of road or bridge building material, equipment, tools,
4 machinery, or supplies, or in any contract for the design,
5 construction, or maintenance of state highways or bridges, or the
6 financing thereof, or in any performance bond or workers'
7 compensation or any other insurance furnished to the highways and
8 transportation commission, or insurance furnished to any person,
9 firm, or corporation contracting with the commission. The
10 transportation inspector general shall give a good and sufficient
11 bond from a federally certified surety company, in an amount of
12 one million dollars, conditioned upon the faithful discharge of
13 the duties of his or her office. Any attorney, auditor,
14 investigator, or person employed by the transportation inspector
15 general in a supervisory capacity shall give a good and
16 sufficient bond from a federally certified surety company in an
17 amount satisfactory to the transportation inspector general,
18 conditioned upon the faithful and honest discharge of duties of
19 his or her office.

20 4. Funds shall be appropriated annually for all salaries
21 and all other expenses of the transportation inspector general,
22 except that no appropriation shall be made for the transportation
23 inspector general from highway user fees or other funds allocated
24 for the operation of the department of transportation.

25 226.194. 1. It shall be the duty of the transportation

1 inspector general to:

2 (1) Serve as executive director of the joint committee on
3 transportation oversight;

4 (2) Promote economy, efficiency, effectiveness, and public
5 integrity in the administration of the programs and operations of
6 the department of transportation;

7 (3) To detect and prevent fraud, waste, and abuse in
8 department programs and operations;

9 (4) To provide independent and objective assistance to help
10 assure the department is operated in compliance with the
11 constitutions and laws of the United States and the state of
12 Missouri;

13 (5) To keep the highways and transportation commission, and
14 joint committee on transportation oversight fully and currently
15 informed about any problems or deficiencies relating to the
16 administration of department programs and operations and the
17 necessity for and progress of any corrective actions taken.

18 2. In carrying out duties as prescribed in subsection 1 of
19 this section the transportation inspector general is authorized
20 to:

21 (1) Conduct an independent review, examination, or
22 verification of the written annual report of the department of
23 transportation as required by subsection 2 of section 21.780,
24 RSMo, if requested to do so upon majority vote of the members
25 appointed and serving on the joint committee on transportation

1 oversight;

2 (2) Conduct management evaluations or program evaluations
3 of the department of transportation pursuant to section 226.195;

4 (3) Review and respond to complaints of Missouri citizens
5 pursuant to section 226.196;

6 (4) Receive reports of mismanagement or violations of law
7 from employees of the department of transportation pursuant to
8 section 226.197; and

9 (5) Conduct investigations of violations of state law which
10 are subject to criminal or civil penalty pursuant to section
11 226.198.

12 226.195. 1. Upon majority vote of members of the joint
13 committee of transportation oversight, or upon majority vote of
14 the highways and transportation commission, or as provided in
15 section 226.197, the transportation inspector general shall
16 conduct a management evaluation or program evaluation of the
17 department of transportation.

18 2. For purposes of this section, "management evaluation"
19 means an evaluation which determines, with regard to the purpose,
20 functions, and duties of the department of transportation or a
21 division or program of the department of transportation as to:

22 (1) Whether the agency resources are managed or utilized in
23 an economical and efficient manner; and

24 (2) Identification of inefficiencies or uneconomical
25 practices, including inadequacies in the use and management of

1 information systems, internal, and administrative procedures,
2 organizational structure, use of resources, allocation of
3 personnel, and purchasing policies.

4 3. For purposes of this section, "program evaluation" means
5 an evaluation which determines and evaluates program performance
6 according to program objectives, responsibilities, and duties as
7 set forth by statute or regulation. Program evaluations, in
8 accordance with generally accepted program evaluation standards,
9 shall determine:

10 (1) Whether the program is being performed and administered
11 as authorized or required by law, and whether this action
12 conforms with statutory intent;

13 (2) Whether the objectives and intended benefits are being
14 achieved efficiently and effectively;

15 (3) Benefits derived from any program in relation to the
16 expenditures made therefore; and

17 (4) Whether the program duplicates, overlaps, or conflicts
18 with any other state program.

19 A program evaluation may include determinations within the scope
20 of a management evaluation to the extent necessary or appropriate
21 to the conduct of a particular program evaluation. As used in
22 this section, the term "resources" includes state funds, federal
23 funds, grants, and personnel, and also includes equipment and
24 space, whether assigned, owned, or leased.

1 4. A written report of the results of any management
2 evaluation or program evaluation conducted pursuant to this
3 section, together with recommendations for corrections or
4 improvements within the department of transportation shall be
5 submitted to the governor, the joint committee on transportation
6 oversight, and the highways and transportation commission. If
7 the joint committee on transportation oversight is to consider a
8 management or program evaluation in a regular or special meeting,
9 the transportation inspector general shall provide a copy of the
10 evaluation to the department of transportation at least fifteen
11 days in advance of the meeting and the commission chair or
12 director, or his or her designee, shall be allowed to respond and
13 provide additional information to the committee during the
14 meeting.

15 5. Any management evaluation or program evaluation of the
16 transportation inspector general shall not duplicate the
17 comprehensive financial report of the independent certified
18 public accountant for the last fiscal year, submitted with the
19 written report required from the department of transportation
20 pursuant to subsection 2 of section 21.780, RSMo, and no
21 management or program evaluation of the transportation inspector
22 general shall duplicate any evaluation completed in the preceding
23 two calendar years by the state auditor or the oversight division
24 of the committee on legislative research.

25 6. All evaluations performed by the transportation

1 inspector general shall conform to the standards for auditing of
2 governmental organizations, programs, activities, and functions
3 established by the comptroller general of the United States. The
4 evaluation objectives as defined in the standards shall determine
5 the type of evaluation to be conducted.

6 7. The department of transportation, its officers and
7 employees, any agency to which state highway user fees or general
8 revenue is appropriated for transportation purposes, any
9 governmental entity, political subdivision, or other person, and
10 any contractor to the department of transportation shall fully
11 cooperate with the transportation inspector general in the
12 conduct of management or program evaluations.

13 226.196. 1. Any member of the general assembly may present
14 the complaint of any citizen of this state to the transportation
15 inspector general regarding the following:

16 (1) Any policy or practice regarding the acquisition of
17 right-of-way for transportation projects. The transportation
18 inspector general shall have no authority over any matter under
19 the jurisdiction of condemnation commissioners or the courts,
20 under state law;

21 (2) The condition or design of any roadway or bridge or the
22 performance of any activity or service by the department or its
23 agents which present a safety hazard to the general public; or

24 (3) The conduct of any department of transportation
25 employee, or the employee of a contractor to the department.

1 2. The inspector general shall immediately present such
2 complaint to the appropriate official of the department of
3 transportation and the department shall respond in writing to the
4 inspector general within thirty days regarding corrective actions
5 to be undertaken or stating reasons that the complaint is not
6 justified or the reasons that corrective action cannot be taken.
7 The inspector general shall immediately report to the elected
8 official and the citizen making the complaint regarding the
9 department's response.

10 3. The inspector general shall endeavor to resolve
11 complaints from citizens through negotiation with the department
12 of transportation.

13 4. The inspector general shall state the number and nature
14 of complaints received from citizens through their elected
15 representatives in the report presented at regular meetings of
16 the joint committee on transportation oversight. The report
17 shall state the status of such complaints, the department's
18 response, and actions taken by the transportation inspector
19 general or department to resolve such complaints.

20 226.197. 1. The transportation inspector general may
21 receive information from any employee of the department of
22 transportation which the employee reasonably believes evidences:

23 (1) A violation of any law, rule, or regulation; or

24 (2) Mismanagement, a gross waste of funds, or abuse of
25 authority, or a substantial and specific danger to public health

1 or safety, if the disclosure is not specifically prohibited by
2 law.

3 2. Employees reporting to the transportation inspector
4 general are subject to the same limitations and protections as
5 provided in sections 105.055 and 105.058, RSMo, regarding reports
6 by state employees to the state auditor and members of the
7 general assembly.

8 3. If upon review by the transportation inspector general
9 of information provided by an employee of the department of
10 transportation, the transportation inspector general determines
11 that the employee knew or had reason to know that the information
12 reported was false, that the information was a closed record
13 under the open meetings law or any other law, or that the
14 information relates to the employee's own violations of law,
15 mismanagement, gross waste of funds, abuse of authority, or
16 endangerment of the public health or safety, the employee shall
17 not be protected from disciplinary action under section 105.055,
18 RSMo, and the transportation inspector general shall make a
19 report of his or her findings to the employee's supervisor.

20 4. Based upon substantial evidence presented to the
21 inspector general under subsection 1 of this section, the
22 transportation inspector general may initiate a management
23 evaluation or program evaluation under section 226.195 or may
24 initiate an investigation under section 226.198.

25 226.198. 1. The transportation inspector general may

1 initiate an investigation based upon substantial evidence
2 obtained through a management evaluation or program evaluation,
3 through the report of any citizen, regardless of whether
4 presented through the process outlined in section 226.196,
5 through the report of an employee of the department of
6 transportation under section 226.197, or which was obtained upon
7 the transportation inspector general's own initiative. For
8 purposes of section 226.194 and 226.199, "investigation" means an
9 investigation of acts or omissions which are subject to criminal
10 or civil penalties under Missouri statutes or regulations.

11 2. The transportation inspector general may conduct an
12 investigation authorized under subsection 1 of this section
13 regarding any officer or employee of the department of
14 transportation, any person or company contracting with the
15 department of transportation, or any person or entity which
16 receives federal or state funds from the department of
17 transportation.

18 3. The transportation inspector general shall maintain
19 records of all investigations conducted, including any record or
20 document or thing, any summary, writing, complaint, data of any
21 kind, tape or video recordings, electronic transmissions, e-mail,
22 other paper or electronic documents, records, reports, digital
23 recordings, photographs, software programs and software, expense
24 accounts, phone logs, diaries, travel logs, or other things,
25 including originals or copies of any of the above. Records of

1 investigations by the inspector general shall be an
2 "investigative report" of law enforcement agency under the
3 provisions of section 610.100, RSMo. As provided in such
4 section, such records shall be a closed record until the
5 investigation becomes inactive. If the transportation inspector
6 general refers a violation of law to the appropriate prosecuting
7 attorney or the attorney general, such records shall be
8 transmitted with the referral. If the transportation inspector
9 general finds no violation of law or determines not to refer the
10 subject of the investigation to the appropriate prosecuting
11 attorney or the attorney general regarding matters referred to
12 the appropriate prosecuting attorney or the attorney general and
13 the statute of limitations expires without any action being
14 filed, the records shall remain closed. As provided in section
15 610.100, RSMo, any person may bring an action pursuant to this
16 section in the circuit court having jurisdiction to authorize
17 disclosure of information in the records of the transportation
18 inspector general which would otherwise be closed pursuant to
19 this section. Any disclosure of records by the transportation
20 inspector general in violation of this section shall be grounds
21 for a suit brought by any individual, person, or corporation to
22 recover damages, and upon award to the plaintiff reasonable
23 attorney's fees.

24 4. If upon conclusion of an investigation, the
25 transportation inspector general determines that there is a

1 preponderance of evidence that a violation of state statute or
2 regulation has occurred which is subject to criminal or civil
3 penalty, the transportation inspector general shall report such
4 violation together with records of the investigation to the
5 appropriate prosecuting attorney or the attorney general for
6 prosecution or other action as may be authorized by law.

7 226.199. 1. The authority of the transportation inspector
8 general under sections 226.192 to 226.199 shall not extend to:

9 (1) The administration of or any potential violation of any
10 environmental law under the jurisdiction of the department of
11 natural resources or the United States Environmental Protection
12 Agency;

13 (2) Any matter relating to workers' compensation,
14 employment security, prevailing wage or other employment laws
15 under the jurisdiction of the department of labor and industrial
16 relations, except that the transportation inspector general may
17 conduct management evaluations as to the effective and efficient
18 administration of the department of transportation in complying
19 with those laws;

20 (3) Any matter relating to taxation under the jurisdiction
21 of the department of revenue, except for management evaluations
22 as to best practices in the collection of highway user fees;

23 (4) Any matter related to acts or omissions under the
24 jurisdiction of the United States Occupational Safety and Health
25 Administration;

1 (5) Any matter relating to the authority of the highways
2 and transportation commission to include or omit any specific
3 project in a short-term or long-term plan of the commission, to
4 build, maintain, or improve any specific transportation project,
5 or to award or not award a contract to a specific person or
6 company, except as those decisions by the commission pertain to a
7 violation of a statute, rule, or policy of the department which
8 would subject any person to a criminal penalty for violation of
9 law; or

10 (6) Any other matter not directly related to the effective
11 and efficient performance of duties assigned to the department of
12 transportation under state or federal law.

13 2. The transportation inspector general and any person
14 appointed by him or her for that purpose may administer oaths and
15 cause to be summoned before them any person whose testimony is
16 desired or necessary in any management evaluation or program
17 evaluation, and may require the person to produce necessary
18 papers, documents, and writings.

19 3. In the course of any investigation pursuant to section
20 226.198, the transportation inspector general may request the
21 circuit judge of Cole County to issue a subpoena to any witness
22 who may have information, for the purpose of oral examination
23 under oath or to require the production of any records or other
24 materials of an evidentiary nature at the office of the
25 transportation inspector general. The subpoena shall be

1 requested and enforced in the same manner as a subpoena sought by
2 a prosecuting attorney under section 56.085, RSMo.

3 Section B. The provisions of sections 226.192, 226.194,
4 226.195, 226.196, 226.197, 226.198, and 226.199, of section A of
5 this act, shall terminate on August 28, 2008.